

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA,

Plaintiff,

MEMORANDUM AND ORDER
o8 CR 68o (ILG)

-against-

JOSHUA MIDDLETON,

Defendant.

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GLASSER, United States District Judge:

The defendant, *pro se*, moves this Court for an Order that would reduce his sentence pursuant to 18 U.S.C. § 3582(c)(2) referencing the Fair Sentence Act Amendment 706. DE # 22.

By way of background, the defendant pleaded guilty on December 16, 2008 to violating 18 U.S.C. § 846, conspiring to distribute and possess with intent to distribute more than 50 grams of cocaine base. He was sentenced on March 19, 2009 to the mandatory term of imprisonment for ten years.

The government responded to the defendant's motion by letter brief dated January 2, 2015, DE 23, familiarity with which is assumed. That assumption makes unnecessary a replication of its chronological discussion of the relevant amendments to the United States Sentencing Guidelines which provide no solace to the defendant. It would suffice to cite the definitive observation made in United States v. Williams, 551 F.3d 182, 185 (2d Cir. 2009) ("once the mandatory minimum applied, the [defendant's] sentence was no longer based on a sentencing range that has subsequently been lowered by the Sentencing Commission."), and the holding in Dorsey v. United States, 132 S. Ct. 2321 (2012), that the Fair Sentence Act of 2010 applied to defendants whose sentences

were imposed after August 3, 2010, the effective date of that Act. This defendant was sentenced on March 19, 2009 and his motion must, therefore, be denied.

SO ORDERED.

Dated: Brooklyn, New York
January 5, 2015

s/
I. Leo Glasser

Filed on ECF and a copy mailed to:

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